



Natural Gas Vehicles for America

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President

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Ms. Linda Bluestein  
U.S. Department of Energy  
Office of Energy Efficiency and Renewable Energy  
FreedomCAR and Vehicle Technologies Program  
Mailstop EE-2G  
Room 5F-034  
1000 Independence Avenue, SW  
Washington, DC 20001

**RE: Alternative Fuel Transportation Program; Alternative Compliance; RIN 1904-AB66; Notice of Proposed Rulemaking, 71 Fed. Reg. 36,034 (June 23, 2006).**

Dear Ms. Bluestein:

## **I. Introduction**

NGVAmerica (formerly “The Natural Gas Vehicle Coalition”) appreciates the opportunity to provide comments on the above captioned notice of proposed rulemaking (NPR). NGVAmerica is a national organization of over 100 member companies, including: vehicle manufacturers; natural gas vehicle (NGV) component manufacturers; natural gas distribution, transmission, and production companies; natural gas development organizations; environmental and non-profit advocacy organizations; state and local government agencies; and fleet operators. NGVAmerica is dedicated to developing markets for NGVs and building an NGV infrastructure, including the installation of fueling stations, the manufacture of NGVs, the development of industry standards, and the provision of training.

NGVAmerica supports DOE’s implementation of the Alternative Fuel Transportation Program, 10 CFR Part 490. Through the EPCA 1992, thousands of alternative fueled vehicles (AFVs) have been acquired by covered fleets. The program

has served to stimulate the market for AFVs, including NGVs, and therefore is important to the broader acceptance of such vehicles. The acquisition of AFVs under this program also has helped to support the introduction of alternative fuel refueling infrastructure. While small in overall scope, this program nevertheless has helped increase awareness of AFVs and has played a role in encouraging manufacturers to make more AFVs available. In recent years, however, production of AFV models, light-duty vehicles in particular, has declined, making it more difficult for fleets to meet their obligations under this program. The Alternative Compliance provision enacted in EPCA 2005, therefore, should help ameliorate this situation by providing fleets and covered persons with additional flexibility. This provision also will likely lead to increased use of alternative fuels and petroleum reductions by fleets that sign up for the Alternative Compliance provision because of its emphasis on petroleum reductions.

NGV America appreciates the effort DOE has put into developing the proposed regulations for this program. For the most part, we support the proposed provisions. The comments submitted herein are intended to clarify various provisions in the notice that are not clear, and to propose several alternative implementation options.

## **II. Comments on Specific Provisions**

### **A. Petroleum Consumption Reductions**

The most critical aspect of implementing the Alternative Compliance program is establishing the parameters that will be used to determine how much petroleum a fuel provider or state government fleet is required to reduce. In its notice, DOE states:

For both covered persons and State entities given credit under section 508, the statute requires DOE to grant a waiver on a showing that petroleum motor fuel consumption will be reduced in an amount equal to the amount of petroleum the fleet's *cumulative inventory* of AFVs would reduce if those vehicles operated 100 percent of the time on alternative fuel.

71 Fed. Reg. at 36035 (emphasis added).

DOE interprets “cumulative inventory” to mean only the AFVs a covered person or fleet has previously acquired plus any waived AFV acquisitions. The word inventory, however, does not appear in the statute. By inserting the word inventory into the above requirement, DOE has greatly limited the initial impact of the program and fashioned an interpretation of the provision that establishes requirements that are

inequitable (as illustrated below). NGVAmerica believes that DOE has misread the intent of the statutory language. We believe that Congress meant the use of the word “cumulative” to mean all the AFVs the covered person or State entity would have had in their fleet if it had purchased all the AFVs it was required to purchase – without consideration of vehicle credits used or exemptions granted.

NGVAmerica also believes that DOE’s interpretation would be inequitable. For example, under DOE’s proposal, the following fleets could be granted the new waiver with *no* petroleum-offset requirements for their existing fleet since their “inventory of AFVs” would be zero:

- Covered fleets that satisfied all their AFV purchase requirements to-date with credits that they had accrued or purchased;
- Covered fleets that have received exemptions for all their previous requirements;
- Covered fleets that have simply under-complied with EPA requirements to-date (i.e., not purchased any AFVs).

Meanwhile, to qualify for the new waiver, a fleet that has been dutifully complying with the AFV requirements of EPA by purchasing AFVs for its fleet would have a substantial petroleum offset requirement for its existing fleet.

DOE’s approach also limits the potential petroleum reduction benefits of the program -- at least in the initial years. Over time, the requirements for fleets or covered persons that have done little in the past will ramp up as an increasingly larger number of vehicles are waived. But, in the early years, the petroleum offset from these fleets would be minimal, and, further, these fleets will initially have an unfair advantage over fleets that have acquired a large number of AFVs.

Consequently, NGVAmerica urges DOE to take a different approach in defining the obligation of fleets and covered persons to reduce their petroleum consumption. The approach outlined below is more equitable and will result in the greatest potential petroleum replacement. The approach we recommend is to establish a petroleum reduction percentage and apply it equally to all fleets or covered persons. For fuel providers, this would mean that a fleet must reduce its covered light-duty petroleum consumption by 90 percent. State government fleets would have to reduce their covered light-duty petroleum consumption by 75 percent. This approach complies with the statutory language that requires that reduction be equivalent to amount of petroleum that would be reduced if the fleet or covered persons AFVs operated 100 percent of the time on alternative fuels. It also ensures that the “cumulative” requirement applies to all fleets equally and that fleets that have done little in the past are not provided an advantage with respect to other fleets.

## **B. Exemptions**

NGVAmerica supports DOE's decision not to include new exemptions as part of the Alternative Compliance program. DOE has indicated that it will not consider exemptions with respect to AFV acquisition requirements in waiver years. Exemptions are no longer necessary under such a program because the waiver program already provides additional flexibility with respect to how best to comply with the program, and fleets also have the additional option of remaining under the old program. If alternative fuels or AFVs are not available, fleets or fuel providers are free to pursue other options to offset petroleum use, such as low-level replacement fuel blends, fuel-efficiency through smaller vehicles or gasoline-hybrid vehicles and VMT reductions. Moreover, DOE has proposed an additional element of flexibility by allowing fleets in limited circumstances to use subpart F credits if they have a petroleum reduction shortfall. Therefore, the program already provides sufficient flexibility, and exemptions are not necessary or appropriate, given the intent of this provision to maximize petroleum reductions in exchange for additional flexibility.

We also would urge DOE to consider the impact exemptions have on AFV inventories. As noted above, we have proposed a different approach to determining the petroleum reduction requirements for fleets or covered persons that seek waivers. If DOE is not persuaded to follow the approach outlined, we would urge DOE to take into account any exemptions provided in previous years when determining the number of AFVs in inventory. Specifically, we recommend that DOE add back any exemptions given when determining a fleet's inventory of AFVs. This will provide a more level playing field and more equitable treatment when it comes to determining petroleum reduction requirements. Like the approach recommended above, it seeks to set all fleets and covered persons on a more equal footing with respect to their obligations and results in more petroleum reduction.

## **C. Medium-and Heavy-Duty Vehicles**

NGVAmerica supports DOE's decision to allow medium- and heavy-duty vehicles to participate in the Alternative Compliance program and to earn petroleum reduction offsets. Medium and heavy-duty AFVs use similar technologies and support the development of infrastructure that is necessary for light-duty motor vehicles, the primary focus of EPA's alternative fuel provisions. Therefore, increased use of medium and heavy-duty AFVs can directly help in advancing the market opportunities for light-duty AFVs, while at the same time providing regulated fleets with maximum flexibility to determine how best to offset petroleum consumption.

## **D. Non-Road Vehicles**

NGV America does not believe that non-road vehicles should be included in the proposed Alternative Compliance program. Although these vehicles in some cases use technology that also is used for on-road vehicles, it is less clear that including such vehicles in the Alternative Compliance program would aid in encouraging greater use of on-road, light-duty AFVs. If non-road vehicles were to qualify under the program, it is very likely that some fleets will simply attempt to take credit for fuel efficiency improvements in petroleum fueled vehicles that already are planned and are the consequence of recent advances in on-road vehicle technology. Allowing such vehicles to qualify for petroleum reduction offsets does not further the general intent of EPCRA to further advancements in on-road AFVs, and likely will not result in any additional petroleum reductions if fleets take credit for minimal improvements in non-road vehicles that already are planned and would occur without any encouragement from EPCRA.

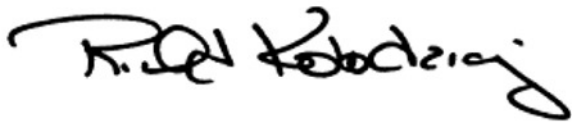
## **E. Use of Excess Petroleum Reduction Offsets**

NGV America agrees with DOE's proposal to allow fleets and covered person to earn excess petroleum reduction credits that can be used in future years. However, we recommend that petroleum reduction credits not be tradable. While we generally believe that providing flexibility is important and should be encouraged, we are concerned that petroleum reduction credits, if allowed to be sold or traded, could overwhelm the program and stifle innovation if it results in only a few fleets actually taking steps to reduce petroleum consumption and others relying only on purchased credits. One of the advantages of the Alternative Compliance program is that it likely will encourage innovation and a many different strategies for reducing petroleum. A credit-trading program, however, could actually result in fewer fleets or covered persons taking steps to reduce petroleum if they can buy credits from other fleets, and overall will result in less innovation.

### III. Conclusion

NGVAmerica appreciates the opportunity to provide these comments. We believe that the Alternative Compliance program if properly implemented can assist in creating additional incentive for AFVs and increase the petroleum reduction levels provided by the Alternative Fuel Transportation Program.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Kolodziej".

**Please contact the persons listed below for more information:**

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